

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

EDWIN JACQUET,

Petitioner,

v.

FEDERAL BUREAU OF PRISONS, et
al.,

Respondent.

HONORABLE JEROME B. SIMANDLE

Civil Action
No. 16-4368 (JBS)

ORDER

This matter came before the Court upon Petitioner's motion for a writ of habeas corpus under 28 U.S.C. § 2241; and

The matter having been remanded to this Court from the U.S. Court of Appeals for the Third Circuit, App. No. 16-3788, for an evidentiary hearing addressing Petitioner's claim that he was not present at his disciplinary hearing on or about October 14, 2015, in violation of his right to due process; and

The Court having convened an evidentiary hearing on November 7, 2017, and having considered the testimony, documents in evidence, and arguments of counsel; and

The Court finding, for reasons summarized in its Oral Opinion upon the record on November 8, 2017, that:

1. Petitioner has proven by a preponderance of the evidence that he was not present at a disciplinary hearing at the Bronx House Residential Reentry Center ("RRC"), and that he did not waive his right to be present;

2. His absence from his disciplinary hearing violated his right to due process of law pursuant to Wolff v. McDonnell, 418 U.S. 539, 563-77 (1974);
3. The disciplinary finding imposed as a result of the hearing in violation of due process shall be vacated; and
4. The issue of appropriate remedy under 28 U.S.C. § 2241 will be addressed by counsel and court at a hearing to be scheduled for December 20, 2017;

WHEREFORE, IT IS this 9th day of **November, 2017** hereby **ORDERED** and **ADJUDGED** that Petitioner's motion for writ of habeas corpus pursuant to 28 U.S.C. § 2241 shall be, and it hereby is, **GRANTED**; and it is further

ORDERED that the discipline imposed by the Federal Bureau of Prisons as a result of the proceedings on or about October 14, 2015 shall be, and hereby is, **VACATED**; and it is further

ORDERED that Petitioner's brief pertaining to the issue of appropriate remedy shall be submitted no later than November 22, 2017; and Respondent's brief shall be submitted no later than December 6, 2017; and the Court will convene a hearing to determine the appropriate remedy on **December 20, 2017 at 11:30 A.M.**

s/ Jerome B. Simandle
JEROME B. SIMANDLE
U.S. District Judge